

CITY OF NEW YORK

FRANCHISE AND CONCESSION REVIEW COMMITTEE

(Cal. No.1)

RESOLVED, that the Franchise and Concession Review Committee authorizes the New York City Department of Parks and Recreation (“Parks”) to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a Sole Source License Agreement (“Agreement”) with the 34th Street Partnership, Inc. regarding Herald and Greeley Squares in Manhattan.

BE IT FURTHER RESOLVED, that Parks shall submit the Agreement it proposes to enter into with the 34th Street Partnership, Inc. to the Franchise and Concession Review Committee for approval.

**THIS IS A TRUE COPY OF THE RESOLUTION ADOPTED BY THE
FRANCHISE AND CONCESSION REVIEW COMMITTEE ON**

January 11th, 2017

Date: _____

Signed: _____

Title: Director of the Mayor's Office of Contract Services

CONCESSION AGREEMENT PRE-SOLICITATION REVIEW MEMORANDUM COVER SHEET
 (Complete and attach a CPSR Memorandum only if the selection procedure will be other than Competitive Sealed Bids)

AGENCY: New York City Department of Parks & Recreation ("Parks")	CONCESSION TITLE/DESCRIPTION: Sole Source License Agreement with the 34 th Street Partnership, Inc. regarding Herald and Greeley Squares in Manhattan.
# VOTES required for proposed action = 4 <input type="checkbox"/> N/A	CONCESSION IDENTIFICATION # M32, 36-O

SELECTION PROCEDURE
 (* City Chief Procurement Officer approval of CPSR required)

Competitive Sealed Bids (CSB)
 Competitive Sealed Proposals (CSP)*

Different Procedure * (Sole Source Agreement Other _____)

Negotiated Concession*

Recommended Concessionaire: 34th Street Partnership, Inc. EIN SSN # 13-3629973
 Attach Memo(s) *

<p align="center">CONCESSION AGREEMENT TERM</p> <p>Initial Term: To be negotiated Renewal Option(s) Term: To be negotiated</p> <p>Total Potential Term: To be negotiated</p>	<p align="center">ESTIMATED REVENUE/ANTICIPATED BUSINESS TERMS (Check all that apply)</p> <p align="center"><input type="checkbox"/> Additional description attached</p> <p><input type="checkbox"/> Annual Minimum Fee(s) \$ _____</p> <p><input type="checkbox"/> % Gross Receipts _____ %</p> <p><input type="checkbox"/> The Greater of Annual Minimum Fee(s of \$ _____ v. _____ % of Gross Receipts</p> <p><input checked="" type="checkbox"/> Other formula To be negotiated</p>
<p>LOCATION OF CONCESSION SITE(S)* <input type="checkbox"/> N/A</p> Address: Herald Square: Broadway & 6th Ave between 34 St. & 35 St.; New York, NY Greeley Square: Broadway & 6 th Ave between 32 St. & 33 St.; New York, NY Borough: Manhattan C.B. 5 Herald Square: Block # 810 Lot # 45 Greeley Square: Block # 834 Lot # 1 *Attach additional sheet	

CONCESSION TYPE (Check all that apply)

> Significant Concession:

NO
 YES Basis:
 Total potential term =>10 years Projected annual income/value to City >\$100,000 Major Concession

> Major Concession:

NO
 YES - Award will be subject to review and approval pursuant to Sections 197-c and 197-d of NYC Charter.

NOTIFICATION REQUIREMENTS

Subject concession will be awarded by CSB or CSP. YES NO

If YES, check the applicable box(es) below:

The subject concession is a Significant Concession and the Agency has/will complete its consultations with each affected CB/BP regarding the scope of the solicitation at least 30 days prior to its issuance.

The subject concession is a Significant Concession and the Agency provided notification of such determination to each affected CB/BP by inclusion of this concession in the Agency's Plan pursuant to §1-10 of the Concession Rules.

The subject concession has been determined not to be a Major Concession and the Agency has sent/will send written notification of such determination to each affected CB/BP at least 40 days prior to issuance of the solicitation.

The subject concession has been determined not to be a Major Concession and the Agency provided notification of such determination to each affected CB/BP by inclusion of this concession in the Agency's Plan pursuant to §1-10 of the Concession Rules.

If NO, check the applicable box below:

The Agency certifies that each affected CB/BP has received/will receive written notice at least 40 days in advance of the FCRC meeting at which the agency will seek approval to use a different selection procedure.

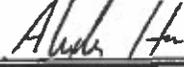
- The Agency certifies that based on exigent circumstances it has requested/will request unanimous approval of the FCRC to waive advance written notice to each affected CB/BP.
- The Agency certifies that each affected CB/BP will receive written notice that the concession was determined to be non-major along with a summary of the terms and conditions of the proposed concession upon publication of a Notice of Intent to Enter into Negotiations. The agency further certifies that it will send a copy of this notice to the members of the Committee within five days of the notice to each affected CB/BP.

AUTHORIZED AGENCY STAFF

This is to certify that the information presented herein is accurate.

Name Alexander Han

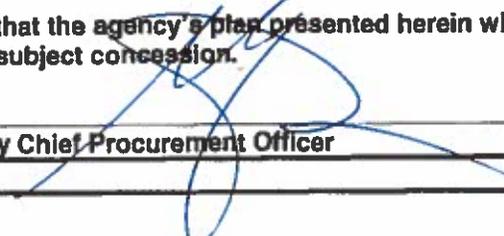
Title Director of Concessions

Signature 

Date 1/3/2017

CITY CHIEF PROCUREMENT OFFICER

This is to certify that the agency's plan presented herein will comply with the prescribed procedural requisites for the award of the subject concession.

Signature 
City Chief Procurement Officer

Date 1/3/2017

CONCESSION PRE-SOLICITATION REVIEW MEMORANDUM

A. DETERMINATION TO UTILIZE OTHER THAN COMPETITIVE SEALED BIDS N/A

Instructions: Attach copy of draft RFP or other solicitation document, and check all applicable box(es) below.

The Agency has determined that it is not practicable or advantageous to use Competitive Sealed Bids because:

- Specifications cannot be made sufficiently definite and certain to permit selection based on revenue to the City alone.
- Judgment is required in evaluating competing proposals, and it is in the best interest of the City to require a balancing of revenue to the City, quality and other factors.
- The agency will be pursuing a negotiated concession for the reasons listed in section (B)(3)(b)
- Other (Describe):

The New York City Department of Parks and Recreation ("Parks") will be pursuing a Sole Source License Agreement ("Agreement") pursuant to Section 1-16 of the Concession Rules ("different procedure") for the reasons listed in section (B)(2).

B. DETERMINATION TO USE OTHER THAN COMPETITIVE SEALED PROPOSALS N/A

1. *Briefly summarize the terms and conditions of the concession. Add additional sheet(s), if necessary.*

To be determined at a later date - when/if the Franchise and Concession Review Committee ("FCRC") approves the use of a different procedure to negotiate a Sole Source License Agreement with the 34th Street Partnership, Inc. (the "Partnership") regarding Herald and Greeley Squares in Manhattan.

2. *Briefly explain the basis for the determination not to solicit Competitive Sealed Proposals.*

The Partnership is a not-for-profit, private management company incorporated in 1992 as a Business Improvement District ("BID") solely to service the 34th Street District, pursuant to a contract with the NYC Department of Small Business Services ("SBS"). The BID is comprised of 31 dense blocks with heavy foot traffic in the heart of Manhattan. The Partnership is funded by assessments on properties within its boundaries, as well as fees it receives from concessions at Herald and Greeley Squares ("the Squares"), and revenue generated by events in the Squares.

The Partnership includes talented professionals in the fields of urban management, sanitation, security, industrial design, graphic design, horticulture, retail services, event planning and management, visitors' services, and information systems. The Partnership assumes the responsibility for providing sanitation and security services in the BID, as well as maintains over 2,000 pieces of street furniture, mostly of their own design, and keeps the BID green by maintaining trees and planters. Due to the public nature of its endeavors, the Partnership cooperates closely with City agencies including NYPD, Parks, Transportation, Sanitation, and SBS to promote the safety and vibrancy of the neighborhood.

The Partnership entered into an agreement with Parks in 1997 (the "Agreement") for the maintenance and operation of the Squares, properties under Parks' jurisdiction, located between Broadway and Sixth Avenue, and between 34th and 35th Streets, and between 32nd and 33rd Streets, respectively. The Agreement was for a ten-year term, with two five-year renewal options, the last of which expires on June 9, 2017. The Agreement allowed the Partnership to improve and maintain the Squares and the exclusive right to operate concessions and to sublicense others to do so. Under the Agreement, the Partnership in 1999 made \$2,987,000 in capital improvements to the Squares funded by bonds issued by the BID in the amount of \$24,180,000. The Agreement also granted the Partnership the right to hold special events and the right to sell and display advertising, subject to prohibitions contained in the Agreement. Any revenue

received by the Partnership generated by such operations at the Squares was to be used solely to provide labor and materials employed by the Partnership to operate and maintain the Squares or for such other purposes specifically approved by the Commissioner, including but not limited to funding of recreational, educational or cultural programming for the Squares.

Presently, Parks seeks to negotiate a Sole Source License Agreement with the Partnership for the continued operation, maintenance and programming of the Squares. It is anticipated that the Sole Source License Agreement will allow the Partnership to engage in revenue generating activities including the operation of food concessions and other events authorized by Parks and the right to display sponsorship or revenue generating signage on kiosks located in the Squares subject to City approval. It is anticipated that all revenue received by the Partnership will be used exclusively for the operation, maintenance, and programming of the Squares.

The Partnership has extensive experience providing valuable public amenities, including restrooms, at the site and has been an excellent steward of the Squares. Given the Partnership's demonstrated and firm commitment to maintaining and improving the Squares as well as the entire 34th Street District, Parks believes that it is in the best interest of the City to negotiate a Sole Source License Agreement with the Partnership, rather than proceed with a competitive solicitation process.

3a. ***Briefly explain the selection procedure that will be utilized.***

Parks is requesting FCRC authorization to utilize a different procedure, pursuant to Section 1-16 of the Concession Rules of the City of New York, to negotiate a Sole Source License Agreement with the Partnership which will go before the FCRC on January 11, 2017 ("Step 1"). Once negotiated and if determined by Parks to be a significant concession, Parks and the FCRC will hold a joint public hearing on the proposed Agreement before presenting it to the FCRC for "Step 2" approval at a second public meeting. If Parks determines the concession to be non-significant, Parks will present the fully negotiated Agreement with the Partnership to the FCRC and request the required FCRC authorization to enter into the Agreement directly (without the need for an initial joint public hearing).

3b. ***If the selection procedure is a negotiated concession, check the applicable box:*** N/A

The Agency made a determination that it is not practicable and/or advantageous to award a concession by competitive sealed bidding or competitive sealed proposals due to the existence of a time-sensitive situation where a concession must be awarded quickly because:

- The agency has an opportunity to obtain significant revenues that would be lost or substantially diminished should the agency be required to solicit the concession by competitive sealed bids or competitive sealed proposals and the diminished revenue does not relate only to the present value of the revenue because of the additional time needed to solicit competitive sealed bids or competitive sealed proposals; *[Explain]*
- An existing concessionaire has been terminated, has defaulted, has withdrawn from, or has repudiated a concession agreement, or has become otherwise unavailable; *[Explain]*
- The agency has decided, for unanticipated reasons, not to renew an existing concession in the best interest of the City and requires a substitute/successor concessionaire. *[Explain]*
- DCAS is awarding a concession to an owner of property adjacent to the concession property, or to a business located on such adjacent property, and has determined that it is not in the best interest of the City to award the concession pursuant to a competitive process because of the layout or some other characteristic of the property, or because of a unique service that can be performed only by the proposed concessionaire. *[Explain]*

Approved by CCPO: _____ **on** ___/___/___.

4. If the agency has/will request unanimous FCRC approval to waive advance written notice to affected CB(s) that a selection procedure other than CSB or CSP will be utilized, explain the exigent circumstances. N/A



NYC Parks

Mitchell J. Silver, FAICP
Commissioner

City of New York
Parks & Recreation

The Arsenal
Central Park
New York, NY 10065
www.nyc.gov/parks

MEMORANDUM

TO: Hon. Gale Brewer, President of the Borough of Manhattan
Wally Rubin, District Manager, Manhattan Community Board 5

FROM: Phil Abramson, NYC Parks Director of Revenue Communications *PA*

SUBJECT: Notice of Intent to Seek Franchise and Concession Review Committee
Approval to Utilize a Different Procedure to Negotiate a Sole Source
License Agreement with the 34th Street Partnership, Inc. regarding Herald
and Greeley Squares in Manhattan

DATE: December 2, 2016

Pursuant to Section 1-16 of the Concession Rules of the City of New York, this is to notify the Manhattan Borough President and Manhattan Community Board 5 that the New York City Department of Parks and Recreation is seeking Franchise and Concession Review Committee ("FCRC") approval to utilize a different procedure to negotiate a Sole Source License Agreement with the 34th Street Partnership, Inc. for the operation, maintenance and programming of Herald and Greeley Squares in Manhattan in addition to revenue-generating activities including the operation of food concessions and other events authorized by Parks.

This concession has been determined not to be a major concession as defined in Chapter 7 of the Rules of the City Planning Commission.

If you have any questions or comments, please feel free to contact Phil Abramson, NYC Parks Director of Revenue Communications, by phone at (212) 360-3426 or via email at phil.abramson@parks.nyc.gov.

Thank you.